

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LINEX TECHNOLOGIES, INC.)	
)	
Plaintiff,)	
)	
v.)	
)	C.A. No. 11-400-GMS
HEWLETT-PACKARD COMPANY, APPLE)	
COMPUTER INC., ARUBA NETWORKS,)	JURY TRIAL DEMANDED
INC., MERU NETWORKS, AND RUCKUS)	
WIRELESS,)	
)	
Defendants.)	

STIPULATION AND ORDER TO STAY PURSUANT TO 28 U.S.C. § 1659

All Defendants herein seek to stay this entire civil action (“Action”) pursuant to 28 U.S.C. § 1659. Subject to each Defendant reserving its right to contest jurisdiction, venue, and service at a later time, the parties (Plaintiff and all the Defendants) hereby agree and stipulate to a stay of this Action, on the following grounds:

1. Plaintiff filed its Complaint in this Court against all Defendants in this case on May 6, 2011, asserting infringement of U.S. Patent No. 6,757,322 (“the ‘322 patent”) and U.S. Reissue Patent No. RE42,219 (“the ‘219 patent”).
2. On that same day, Plaintiff also filed a Complaint under Section 337 of the Tariff Act of 1930 (As Amended) with the U.S. International Trade Commission (“ITC Complaint”) alleging infringement of the same two patents at issue in this case. Plaintiff’s ITC Complaint was filed against all the named Defendants in the above-captioned action.
3. On June 2, 2011, the ITC instituted an investigation, No. 337-TA-775, regarding Plaintiff’s Complaint (“ITC Investigation No. 775”). *See* Exhibit A (attaching letter received by all parties). Section 1659 of Title 28 provides that where “a civil action

involving the parties that are also parties to a proceeding before the International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission.” 28 U.S.C. § 1659(a). This stay is mandatory if such a request is made within thirty (30) days from institution of the Investigation. *Id.*

4. All the requirements of Section 1659 have been met because: (i) the parties to this Action and to ITC Investigation No. 775 are the same; (ii) the Defendants in this Action, who are also the named Respondents in ITC Investigation No. 775, request a stay (which the Plaintiff does not oppose); and (iii) the patent-infringement claims at issue in this Action are the same as those at issue in ITC Investigation No. 775.

Accordingly, subject to the approval of the Court, the parties agree to stay the entirety of this Action, including, without limitation, the time to answer or otherwise respond to the Complaint, pending final resolution of ITC Investigation No. 775, including any and all appeals. The parties agree that Defendants need not respond to the Complaint before the Court approves this Stipulation and Order, and further agree that upon dissolution of the stay, the Defendants will have thirty (30) days to answer or otherwise respond to the Complaint.

For all the foregoing reasons, Plaintiff and all the Defendants respectfully request that the Court stay this Action as to all parties pursuant to 28 U.S.C. § 1659(a).

PROCTOR HEYMAN LLP

By: /s/ Neal C. Belgam
Neal C. Belgam (#2721)
Melissa N. Brochwicz Donimirski (#4701)
300 Delaware Avenue, Suite 200
Wilmington, DE 19801
nbelgam@proctorheyman.com
mdonimirski@proctorheyman.com

Attorneys for Plaintiff Linex Technologies, Inc.

MORGAN LEWIS & BOCKIUS LLP

By: /s/ Ramy E. Hanna
Colm F. Connolly (#3151)
Ramy E. Hanna (#5494)
1007 Orange Street, Suite 501
Wilmington, DE 19801
cconnolly@morgan.lewis.com
rhanna@morganlewis.com

Attorneys for Defendant Hewett-Packard Company

RATNER & PRESTIA

By: /s/ George Pazuniak
George Pazuniak (#478)
1007 Orange Street, Suite 1100
Wilmington, DE 19899-1596
GPazuniak@ratnerprestia.com

Attorneys for Defendant Ruckus Wireless

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Respectfully submitted,

POTTER ANDERSON & CORROON LLP

By: /s/ Richard L. Horwitz
Richard L. Horwitz (#2246)
David E. Moore (#3983)
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801
Tel: (302) 984-6000
rhorwitz@potteranderson.com
dmoore@potteranderson.com

Attorneys for Defendants Apple Inc. and Meru Networks

RICHARDS, LAYTON & FINGER, PA

By: /s/ Jason James Rawnsley
Frederick L. Cottrell, III (#2555)
Jason James Rawnsley (#5379)
One Rodney Square
920 N. King Street
Wilmington, DE 19801
Cottrell@rlf.com
rawnsley@rlf.com

Attorneys for Defendant Aruba Networks, Inc.

IT IS SO ORDERED this ____ day of ____, 2011.

CHIEF JUDGE